

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

MEDFORD DIVISION

TIMOTHY M. HATFIELD,

Case No. 1:12-CV-436-SU

Petitioner,

FINDINGS AND RECOMMENDATIONS

v.

RICK ANGELOZZI, JOE DECAMP,
STATE OF OREGON, ALL AGENTS,
KLAMATH COUNTY CORRECTIONS,
OREGON ATTORNEY GENERAL, KIKI
PARKER-ROSE, ED CALAB, and MARK
NOOTH,

Respondents.

SULLIVAN, Magistrate Judge.

FINDINGS

Petitioner filed this 28 U.S.C. § 2254 habeas corpus case on March 12, 2012 against a variety of respondents. "The proper respondent in a federal habeas corpus petition is the petitioner's 'immediate custodian.'" *Brittingham v. United States*, 982 F.2d 378, 379 (9th Cir. 1992) (quoting *Demjanjuk v. Meese*, 784 F.2d 1114,

1115 (D.C. Cir. 1986) (Bork, J., in chambers); *Stanley v. California Supreme Court*, 21 F.3d 359, 360 (9th Cir. 1994). "A 'custodian' is the person having day-to-day control over the prisoner." *Brittingham*, 982 F.2d at 379. This person is typically the warden of the facility in which the petitioner is incarcerated.

Petitioner has properly named his custodian, Rick Angelozzi, as a respondent to this action. The remainder of the respondents named in the caption of the Petition are not proper and should be dismissed.

Also before the court is petitioner's Motion to Grant Relief (#4). Not only is petitioner's Motion unnecessary, but petitioner bases his Motion on state statutes, not federal law as required by 28 U.S.C. § 2254(a). As a result, the court should deny the Motion to Grant Relief (#4).

RECOMMENDATIONS

The court should dismiss all respondents to this action with the exception of Rick Angelozzi, thus allowing the case to proceed only against him. The court should also deny petitioner's pending Motion to Grant Relief (#4) as unnecessary and improperly based upon state law. Should the court adopt these Findings and Recommendations, the court will electronically serve the Petition for Writ of Habeas Corpus upon counsel for the remaining respondent and issue an order setting the briefing schedule in this case.

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SCHEDULING ORDER

This Findings and Recommendation will be referred to a district judge. Objections, if any, are due by 4/9/2012. The Findings and Recommendation will go under advisement on that date.

DATED this 23rd day of March, 2012.

/s/Patricia Sullivan

Patricia Sullivan

United States Magistrate Judge